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Notice of Allowability

Application No.

09/867,923

Examiner

Trenton J. Roche

Applicant(s)

MEYERSON, MATTHEW S.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communications filed 21 June 2005.
2. ☒ The allowed claim(s) is/are 1-26.
3. ☒ The drawings filed on 12 October 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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DETAILED ACTION

1. This Office action is responsive to communications filed 21 June 2005.
2. Per applicant's request, amended claims 1, 13, 23 and 24 have been entered. Claims 1-26 are currently pending.
3. Claims 1-26 have been examined.

Response to Arguments

4. Applicant's arguments, see pages 12-13 of the Remarks, filed 21 June 2005, with respect to claims 1-26 have been fully considered and are persuasive. The rejection of claims 1-8, 12, 13, 20 and 22-26 under 35 U.S.C. § 102(b) and the rejection of claims 9-11, 14-19 and 21 under 35 U.S.C. § 103(a) have been withdrawn.

Allowable Subject Matter & Examiner's Statement of Reason(s) for Allowance

5. Claims 1-26 are allowed.
6. The following is an examiner's statement of reasons for allowance:

The closest found prior art of record, specifically, U.S. Patent 5,752,042 to Cole et al., taken alone or in combination, fails to teach or reasonably suggest a method for updating computer software on a computer in accordance with independent claim 1. Specifically, Cole et al. does not teach *downloading software update information through a network to the computer, determining if a software update is available from the software update information...evaluating the criticality of the software update from an output of a criticality check program and the software update information, accessing stored user preference information that includes a user criticality threshold, and determining if the software update should be automatically downloaded and installed by*

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comparing the user criticality threshold of the user preference information and the evaluated criticality of the software update (claim 1). Similar limitations are recited in independent claims 20, 21 and 23-26.

Instead, Cole et al. disclose a system for identifying code updates which are consistent with system characteristics of the client computer, by sending a “recognizer” program to the client computer which will gather version information relating to software programs. The system can also determine the criticality of each respective code update and builds a selection form for display at the client. However, Cole et al. do not disclose storing user preference information that includes a user criticality threshold, and determining if the software update should be automatically downloaded and installed by comparing the user criticality threshold of the user preference information and the evaluated criticality of the software update as required by independent claim 1.

Newly found prior art, U.S. Patent 6,701,521 to McLlroy et al. discloses a software updating system which provides the user the ability to specify stored preferences with regard to when an update is to be installed, and based on these preferences, the system will decide if an update should be automatically installed. However, McLlroy et al. do not disclose the additional step of determining if the software update should be automatically downloaded and installed by comparing the user criticality threshold of the user preference information and the evaluated criticality of the software update as required by independent claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

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Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trent J. Roche whose telephone number is (571) 272-3733. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Trent J Roche
Examiner
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TJR



**KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100**